

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GOTTFRIED, ESPAILLAT, RAMOS, PAULIN, LANCMAN, KELLNER, WEISENBERG, PHEFFER, NOLAN, PERRY, J. RIVERA, P. RIVERA, MAISEL, TITUS, KAVANAGH, GREENE -- Multi-Sponsored by -- M. of A. ABBATE, CAHILL, COLTON, DESTITO, DINOWITZ, FARRELL, GLICK, HEASTIE, HOOPER, JACOBS, JAFFEE, KOON, MARKEY, McENENY, REILLY, SWEENEY, TITONE, TOWNS, WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the social services law, in relation to providing Medicaid reimbursement for interpretation services provided by hospital inpatient and outpatient departments and diagnostic and treatment centers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 2807-c of the public health law is amended by
2 adding a new subdivision 34 to read as follows:
3 34. INTERPRETATION SERVICES. (A) NOTWITHSTANDING ANY PROVISION OF THIS
4 SECTION, THE COMMISSIONER SHALL ADJUST INPATIENT MEDICAL ASSISTANCE
5 RATES OF PAYMENT TO PROVIDE REIMBURSEMENT FOR THE COSTS ASSOCIATED WITH
6 THE PROVISION OF INTERPRETATION SERVICES FOR PATIENTS IN RECEIPT OF
7 MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH PROFICIENCY, INCLUDING BUT
8 NOT LIMITED TO HEALTH CARE, BILLING AND MAKING APPOINTMENTS. TO BE
9 ELIGIBLE FOR REIMBURSEMENT, THE PROVISION OF INTERPRETATION SERVICES
10 MUST BE DOCUMENTED IN SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT
11 BY THE COMMISSIONER.
12 (B) FOR PURPOSES OF THIS SUBDIVISION: (I) "PATIENTS WITH LIMITED
13 ENGLISH PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT
14 ENGLISH AND WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH
15 LANGUAGE AT A LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT
16 EFFECTIVELY WITH HEALTH CARE PROVIDERS AND THEIR STAFF; AND (II) "INTER-
17 PRETATION SERVICES" MEANS LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDI-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

1 INDIVIDUALS WITH SUFFICIENT BILINGUAL SKILLS IN BOTH ENGLISH AND THE RELE-
2 VANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO
3 ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED
4 DURING THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVID-
5 UALS WITH DEMONSTRATED COMPETENCY AND SKILLS IN MEDICAL INTERPRETATION
6 TECHNIQUES, ETHICS AND TERMINOLOGY, AND IN ACCORDANCE WITH APPLICABLE
7 REGULATIONS OF THE DEPARTMENT RELATING TO INTERPRETATION SERVICES.

8 S 2. Paragraph (g) of subdivision 2 of section 2807 of the public
9 health law is amended by adding a new subparagraph (iii) to read as
10 follows:

11 (III) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPHS (I) AND (II) OF
12 THIS PARAGRAPH, (A) THE COMMISSIONER SHALL FURTHER ADJUST RATES OF
13 PAYMENT FOR GENERAL HOSPITAL OUTPATIENT AND EMERGENCY SERVICES TO
14 PROVIDE REIMBURSEMENT FOR THE COSTS ASSOCIATED WITH THE PROVISION OF
15 INTERPRETATION SERVICES FOR PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE
16 WHO HAVE LIMITED ENGLISH PROFICIENCY, INCLUDING BUT NOT LIMITED TO
17 HEALTH CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR
18 REIMBURSEMENT, THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCU-
19 MENTED IN SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE
20 COMMISSIONER. (B) FOR THE PURPOSES OF THIS SUBPARAGRAPH: (1) "PATIENTS
21 WITH LIMITED ENGLISH PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE
22 IS NOT ENGLISH AND WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE
23 ENGLISH LANGUAGE AT A LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTER-
24 ACT EFFECTIVELY WITH HEALTH CARE PROVIDERS AND THEIR STAFF; AND (2)
25 "INTERPRETATION SERVICES" MEANS LANGUAGE ASSISTANCE SERVICES PROVIDED BY
26 INDIVIDUALS WITH SUFFICIENT BILINGUAL SKILLS IN BOTH ENGLISH AND THE
27 RELEVANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT
28 TO ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED
29 DURING THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVID-
30 UALS WITH DEMONSTRATED COMPETENCY AND SKILLS IN MEDICAL INTERPRETATION
31 TECHNIQUES, ETHICS AND TERMINOLOGY, AND IN ACCORDANCE WITH APPLICABLE
32 REGULATIONS OF THE DEPARTMENT RELATING TO INTERPRETATION SERVICES.

33 S 3. Section 2807 of the public health law is amended by adding a new
34 subdivision 20 to read as follows:

35 20. NOTWITHSTANDING ANY PROVISION OF THIS SECTION, (A) THE COMMISSION-
36 ER SHALL ADJUST RATES OF PAYMENT FOR DIAGNOSTIC AND TREATMENT CENTERS
37 LICENSED PURSUANT TO THIS ARTICLE TO PROVIDE REIMBURSEMENT FOR THE COSTS
38 ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES FOR PATIENTS IN
39 RECEIPT OF MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH PROFICIENCY,
40 INCLUDING BUT NOT LIMITED TO HEALTH CARE, BILLING AND MAKING APPOINT-
41 MENTS. TO BE ELIGIBLE FOR REIMBURSEMENT, THE PROVISION OF INTERPRETATION
42 SERVICES MUST BE DOCUMENTED IN SUCH A MANNER AS TO ENABLE REPORTING TO
43 AND AUDIT BY THE COMMISSIONER.

44 (B) FOR THE PURPOSES OF THIS SUBDIVISION: (I) "PATIENTS WITH LIMITED
45 ENGLISH PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT
46 ENGLISH AND WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH
47 LANGUAGE AT A LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT
48 EFFECTIVELY WITH HEALTH CARE PROVIDERS AND THEIR STAFF; AND (II) "INTER-
49 PRETATION SERVICES" MEANS LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDI-
50 VIDUALS WITH SUFFICIENT BILINGUAL SKILLS IN BOTH ENGLISH AND THE RELE-
51 VANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO
52 ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED
53 DURING THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVID-
54 UALS WITH DEMONSTRATED COMPETENCY AND SKILLS IN MEDICAL INTERPRETATION
55 TECHNIQUES, ETHICS AND TERMINOLOGY, AND IN ACCORDANCE WITH APPLICABLE
56 REGULATIONS OF THE DEPARTMENT RELATING TO INTERPRETATION SERVICES.

1 S 4. Subdivision 8 of section 2807 of the public health law is amended
2 by adding a new paragraph (g) to read as follows:

3 (G) SUBJECT TO RECEIPT OF ALL NECESSARY FEDERAL APPROVALS, RATES OF
4 PAYMENT COMPUTED IN ACCORDANCE WITH THIS SUBDIVISION MAY BE FURTHER
5 ADJUSTED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWENTY OF THIS
6 SECTION, PROVIDED, HOWEVER, THAT SUCH ADJUSTMENTS SHALL NOT BE SUBJECT
7 TO TREND ADJUSTMENTS AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION.

8 S 5. Subdivision 1 of section 368-a of the social services law is
9 amended by adding a new paragraph (z) to read as follows:

10 (Z) THE FULL AMOUNT EXPENDED FOR INTERPRETATION SERVICES PROVIDED
11 PURSUANT TO SUBDIVISION THIRTY-FOUR OF SECTION TWENTY-EIGHT HUNDRED
12 SEVEN-C OF THE PUBLIC HEALTH LAW, OR SUBPARAGRAPH (III) OF PARAGRAPH (G)
13 OF SUBDIVISION TWO OF SECTION TWENTY-EIGHT HUNDRED SEVEN OF THE PUBLIC
14 HEALTH LAW, OR SUBDIVISION TWENTY OF SECTION TWENTY-EIGHT HUNDRED SEVEN
15 OF THE PUBLIC HEALTH LAW, AFTER FIRST DEDUCTING THEREFROM FEDERAL FUNDS
16 PROPERLY RECEIVED OR TO BE RECEIVED ON ACCOUNT OF SUCH EXPENDITURES.

17 S 6. Notwithstanding any provision of law, rule or regulation to the
18 contrary, the effectiveness of subdivisions 4, 7, 7-a, and 7-b of
19 section 2807 of the public health law, and section 18 of chapter 2 of
20 the laws of 1988, as they relate to time frames for notice, approval or
21 certification of rates of payment, and to the requirement of prior
22 notice of rates of payment, are hereby suspended and shall for purposes
23 of implementing the provisions of this act be deemed to have been with-
24 out any force and effect from and after the first of February for such
25 rates effective for the period April 1 through March 31 in the initial
26 year of implementation.

27 S 7. This act shall take effect immediately and shall apply to: (a)
28 hospital inpatient discharges on or after the first of April after it
29 shall have become a law; and (b) other services provided on or after the
30 first of April after it shall have become a law.